IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 24104 of 2004

Between:

1 K.V.Ramana Murthy, S/o.Subba Rao, Asst.Accountant,
Bobbili Cooperative Urban Bank Ltd., Bobbili,Vizianagaram District.
2 M.V.G.Naidu S/o.Narayana,
Bobbili Cooperative Urban Bank Ltd., Bobbili,Vizianagaram District.
3 S.Sita Rama Lakshmi, D/o.Jagannadhaswamy
Bobbili Cooperative Urban Bank Ltd., Bobbili,Vizianagaram District.

..... PETITIONERS

AND

1 The Government of Andhra Pradesh,

Cooperation Department, rep. by its Secretary,
Hyderabad.
2 The Commissioner and Registrar of Cooperative

Societies, Nampally, Hyderabad.
3 The District Cooperative Officer, Vizianagaram,Vizianagaram District.
4 The Divisional Cooperative Officer, Parvathipuram, Vizianagaram

District.
5 The Deputy Registrar of Cooperative Societies, Parvathipuram,

Vizianagaram District.
6 B.V.Satyalingam, Divisional Coop.Officer (Retired)
Sec.51 of A.P.Coop.Societies Act, Bobbili Cooperative Urban Bank

Ltd., Bobbili,Vizianagaram District.
7 The Bobbili Cooperative Urban Bank Ltd., rep by its General

Manager,Bobbili.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction, more particularly one in the nature of writ of mandamus by declaring the action of the respondents in proceeding to take action against the petitioners basing on enquiry report submitted by the 6th respondent after his retirement as illegal, arbitrary and against to the provisions of the A.P.Cooperative Societies Act, 1964 and Rules made thereunder and consequently direct the respondents to conduct a fresh enquiry before taking any action against the petitioners and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioners: MR.V.AJAYAKUMAR

Counsel for Respondent Nos.1 to 5: GP FOR COOPERATION

Counsel for Respondent Nos.6 and 7: Smt. M.BHASKARA LAKSHMI

The Court at the admission stage made the following :

ORDER:

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This writ petition is filed by the petitioners aggrieved by the report submitted by the 6th respondent after his retirement from the office of the Divisional Cooperative

Officer, Parvathipuram, which report is sought to be acted upon by the other respondents for taking further action and therefore sought to set aside the said report submitted by the 6th respondent as it is illegal and without jurisdiction and consequently direct the respondents to conduct fresh enquiry before taking any action against the petitioners.

2. It is stated that the petitioners were employees of the 7th respondent-Bank. On certain allegations the enquiry was initiated under Section 51 of the A.P.Cooperative Societies Act, 1964 (for short 'the Act') and in process the 3rd respondent appointed the 4th respondent as the Enquiry Officer to conduct the enquiry into the allegations and submit a report. The 4th respondent is the Divisional Cooperative Officer, Parvathipuram, Vizianagaram District, by designation and not by his individual name. The said appointment was made on 28-05-2003. The 6th respondent who came to occupy the office of the 4th respondent on 10-07-2003 assumed the office of the Enquiry Officer in pursuance of the orders of the 3rd respondent and according to the learned Government Pleader he had completed the entire enquiry by 29-02-2004. But, however, the 6th respondent who was in the office of the 4th respondent, retired on that day without submitting any report in pursuance of the enquiry conducted by him. He submitted the report only on 02-08-2004 i.e., five months after his retirement. Basing on the said report proceedings were initiated under the relevant provisions of the Act. Aggrieved by the said action, the petitioners have come up with the present writ petition.

3. The learned counsel appearing for the petitioners contended that the proposed action of the respondents basing on the report submitted by the 6th respondent after he is ceased to be the Divisional Cooperative Officer, is illegal and without jurisdiction. According to the learned counsel, the 6th respondent became the Enquiry Officer by virtue of the office of the 4th respondent and not in his individual capacity. Therefore, he can continue as an Enquiry Officer as long as he holds the office of the 4th respondent and not beyond. As the 6th respondent did not submit any report as long as he was holding the office of the 4th respondent, he could not submit any report thereafter as he ceased to be the Enquiry Officer. Therefore, the proposed action is illegal.

4. The learned Government Pleader, however, sought to sustain the proposed action on the ground that the 6th respondent had completed the enquiry while holding the office of the 4th respondent, but, however, submitted the report only subsequently based on the enquiry which he had completed while holding the office of the 4th respondent. The learned Government Pleader also stated that the report is based on the factual aspects, and therefore, no prejudice would be caused to the petitioners and hence there are no merits warranting interference in the present writ petition.

5. Heard both sides and perused the material on record.

6. The facts narrated earlier clearly show that the 3rd respondent passed an order on 28-05-2003 appointing the Divisional Cooperative Officer, Parvathipuram-the 4th respondent, as the Enquiry Officer to conduct enquiry into the illegalities alleged to have been committed with reference to the 7th respondent-Bank. The 6th respondent who became the Divisional Cooperative Officer on 10-07-2003 assumed as an Enquiry Officer also and conducted and completed the enquiry by 29-02-2004. But, he could not submit the report though he retired on that day, and submitted the report only on 02-08-2004. The petitioners are objecting for such report submitted by the 6th respondent, after he ceased to be the Divisional Cooperative Officer, as illegal and therefore it cannot be acted upon. There is merit in the said contention advanced by the petitioners. When once the 6th respondent ceased to be the Divisional Cooperative Officer, Parvathipuram, he cannot either continue the enquiry or submit a report. Therefore, the report submitted by him subsequently after ceasing to be the Divisional Cooperative Officer is illegal and without jurisdiction, and therefore, the said report cannot be acted upon.

7. Accordingly, the report submitted by the 6th respondent is set aside. However, by virtue of the orders passed on 28-05-2003, the successor Divisional Cooperative Officer, Parvathipuram, can assume the charge of the Enquiry Officer and submit a report basing on the material on record, if the enquiry has already been completed. If the successor Officer is of the opinion that if any further enquiry is required, he can do so and after completing the said enquiry expeditiously, submit a report as contemplated under Section 51 of the Act, preferably, within a period of three months from the date of receipt of a copy of this order. The 3rd respondent is also directed to issue necessary directions to the 4th respondent for assuming the office of the

Enquiry Officer and submit a report, as directed.

8. The writ petition is accordingly disposed of.

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06-06-2005

vs/kvh

To

1 The Secretary, Government of Andhra Pradesh,

Cooperation Department,
Hyderabad.
2 The Commissioner and Registrar of Cooperative

Societies, Nampally, Hyderabad.
3 The District Cooperative Officer, Vizianagaram,Vizianagaram District.
4 The Divisional Cooperative Officer, Parvathipuram, Vizianagaram

District.
5 The Deputy Registrar of Cooperative Societies, Parvathipuram,

Vizianagaram District.
6 The General Manager, Bobbili Cooperative Urban Bank Ltd.,

Bobbili.

7 Two CCs to the G.P for Cooperation, High Court of A.P.,

Hyderabad(O.U.T).

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